

Senate File 471 - Introduced

SENATE FILE 471

BY ZAUN

A BILL FOR

1 An Act relating to the termination of parental rights of
2 an incarcerated parent under child in need of assistance
3 proceedings.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.116, subsection 3, Code 2019, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. (1) The absence of a parent is due to
4 the parent's incarceration in a jail or correctional facility
5 and all of the following apply:

6 (a) A relative has legal custody of the child.

7 (b) The child is over ten years of age and objects to the
8 termination.

9 (c) There is clear and convincing evidence that the
10 termination would be detrimental to the child due to the
11 closeness of the parent-child relationship.

12 (d) The child was removed from the child's home due to the
13 parent's incarceration.

14 (e) The incarcerated parent is participating in substance
15 abuse or mental health treatment services and parenting
16 classes.

17 (f) There is clear and convincing evidence that the parent
18 continues to exhibit the ability and willingness to respond to
19 additional services.

20 (g) There is clear and convincing evidence that the parent
21 exhibits the ability and willingness to participate in planning
22 for the child to return home within twelve months following the
23 parent's release from the jail or correctional facility.

24 (2) The court shall take into consideration all barriers
25 accessing services for a parent incarcerated in jail or a
26 correctional facility including but not limited to all of the
27 following:

28 (a) The lack of appropriate areas in the jail or
29 correctional facility for the parent to have visitation with
30 the child.

31 (b) The lack of the parent's ability to participate in video
32 conference or telephone calls with the child.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill relates to the termination of parental rights
2 of an incarcerated parent under child in need of assistance
3 proceedings.

4 The bill provides that the court need not terminate the
5 relationship between a parent and child due to the absence of a
6 parent if a court finds that the absence of the parent is due to
7 the parent's incarceration in a jail or a correctional facility
8 and a relative has legal custody of the child, the child is
9 over 10 years of age and objects to the termination, there
10 is clear and convincing evidence that the termination would
11 be detrimental to the child at the time due to the closeness
12 of the parent-child relationship, the child was removed from
13 the home due to the parent's incarceration, the incarcerated
14 parent is participating in substance abuse or mental health
15 treatment services and parenting classes offered in the
16 jail or correctional facility, there is clear and convincing
17 evidence that the parent continues to exhibit the ability and
18 willingness to respond to additional services, and there is
19 clear and convincing evidence that the parent exhibits the
20 ability and willingness to participate in planning for the
21 child to return home within 12 months following the parent's
22 release from the jail or correctional facility.

23 The bill requires the court to take into consideration all
24 barriers accessing services for a parent who is incarcerated
25 in jail or a correctional facility including but not limited
26 to the lack of appropriate areas in the jail or correctional
27 facility for the parent to have visitation with the child
28 and the lack of the parent's ability to participate in video
29 conference or telephone calls with the child.